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भाग II—खण्ड 3—उप-खण्ड (ii)
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प्राधिकार से प्रकाशित
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

गृह मंत्रालय
अधिसूचना

नई दिल्ली, 16 अप्रैल, 1993

का.अ. 241 (प्र) :- केन्द्रीय सरकार ने, विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पीपुल्स लिब्रेशन आर्मी (पूर्वी क्षेत्र), पीपुल्स रिवोल्यूशनरी पार्टी ऑफ कांगलीपक और उसकी रेड आर्मी, तथा पीपुल्स रिवोल्यूशनरी पार्टी ऑफ कांगलीपक के उपदलों, जैसे कांगलीपक कम्युनिस्ट पार्टी और उसके मशरूब विंग, जो रेड आर्मी भी कहलाता है और उनके द्वारा स्थापित अन्य निकायों को और यूनाइटेड नेशनल लिब्रेशन फ्रंट को, भारत सरकार के गृह मंत्रालय की अधिसूचना का.अ. 729 (प्र), तारीख 26 अक्टूबर, 1991 द्वारा, विधिविरुद्ध संगम घोषित किया गया था ;

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते

हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना का. अ. स. 783 (अ), तारीख 15 नवम्बर, 1991 और अधिसूचना का.अ.स. 61 (अ), तारीख 21 जनवरी, 1992 द्वारा, विधिविरुद्ध क्रियाकलाप (निवारण) अधिकरण गठित किया था जिसमें मुम्बई उच्च न्यायालय के न्यायधीश न्यायमूर्ति डा. बी.पी. सर्गक थे ;

और केन्द्रीय सरकार ने, उक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 25 नवम्बर, 1991 को उक्त अधिसूचना को यह न्याय-निर्णयन करने के प्रयोजन के लिए उक्त अधिकरण को निर्दिष्ट किया था कि उक्त संगमों को विधिविरुद्ध घोषित करने के लिए पर्याप्त हेतुक है या नहीं ;

और उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारीख 25 अप्रैल, 1992 को अधिसूचना का.अ.सं. 729 (अ), 26 अक्टूबर, 1991 में की गई घोषणा की पुष्टि करते हुए, आदेश किया है ;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (1) के अनुसरण में, उक्त आदेश को प्रकाशित करती है, अर्थात् :-

(न्यायाधीकरण का फैसला अंग्रेजी में छपा है)

[फा.सं. 11/34/91-एन ई-1]

बालमीकि प्रसाद सिंह, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 16th April, 1993

S.O. 241(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared the People's Revolutionary Party of Kangleipak and its Red Army, as also the offshoots of People's Revolutionary Party of Kangleipak like the Kangleipak Communist Party and its armed wing, also called the Red Army and other bodies set up by them and the United National Liberation Front to be unlawful associations vide notification of the Government of India in the Ministry of Home Affairs S.O. No. 729(E), dated the 26th October, 1991.

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted vide notifications of the Government of India in the Ministry of Home Affairs S.O. No. 783 (E), dated the 15th November 1991, and S.O. No. 61 (E) dated the 21st January, 1992, Unlawful Activities (Prevention) Tribunal, consisting of Shri Justice Dr. B. P. Saraf, Judge of the Bombay High Court;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section of the said Act, referred the said notification to the said Tribunal on the 25th November, 1991 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said associations as unlawful;

And whereas the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act made an Order on the 25th April, 1992 confirming the declaration made in the notification S.O. No. 729 (E) dated the 26th October 1991.

Now therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said Order, namely :—

ORDER

This is a reference under sub-section (1) of section 4 of the Unlawful Activities (Prevention) Act, 1967.

The Ministry of Home Affairs, Government of India by a Notification dated 26th October 1991 issued under section 3(1) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'the Act') declared certain organisations specified therein as unlawful associations. This Notification is reproduced below :

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 26th October, 1991

S.O. 729(E).—Whereas the People's Liberation Army (Eastern Region), generally known as the PLA, the People's Revolutionary Party of Kangleipka (hereinafter referred to as PREPAK) and its 'Red Army' as also the offshoots of PREPAK like the Kangleipak Communist Party and its armed wing also called the 'Red Army' and the United National Liberation Front (hereinafter collectively referred to as the Meitei Extremist Organisations)—

- (i) have openly declared as their objective the formation of an independent Manipur comprising the State of Manipur and have resorted to violent activities in pursuance of their objective to bring about cession of the said State from the 'Union of India';
- (ii) have been employing armed forces, namely, the so called People's Liberation Army, the Red Army, their members and the other bodies set up by them to achieve their aforesaid objective;
- (iii) have in furtherance of their aforesaid objective been employing the said armed forces and members in attacking the Security Forces and the Civil Government and the citizens in the State of Manipur, and indulging in acts of looting and intimidation against the civilian population for collection of funds for their organisations;
- (iv) have (sic, made) some efforts to resume their contacts with foreign countries for securing assistance by way of arms and training for the purpose of achieving their aforesaid objective.

And, whereas, the Central Government is of the opinion that for the reasons aforesaid, the Meitei Extremist Organisations and other bodies set up by them, including the armed groups named above, are unlawful associations;

And, whereas, the Central Government is further of the opinion that because of the repeated acts of violence and attacks by armed groups and members of the Meitei Extremist organisations on the Security Forces and on the civilian population, it is necessary to declare the Meitei Extremist Organisations and other bodies set up by them, including the armed groups named above to be unlawful with immediate effect;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the People's Liberation Army (Eastern Region), People's Revolutionary Party of Kangleipak and its Red Army as also off-

shoots of PREPAK like the Kangleipak Communist Party and its armed wing also called the Red Army and other bodies set up by them and the United National Liberation Front to be unlawful associations, and directs, in exercise of the powers conferred by the proviso to sub-section (3) of that section that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette.

[P. A. No. 11/34/91-NE. I]

VINAY SHANKAR, Jt. Secy. (NE)

It was published in the Gazette of India Extraordinary, on the same date.

Thereafter by Notification dated 15th November 1991 published in the Gazette of India, Extraordinary, of the same date this Tribunal was constituted under sub-section (1) of section 4 of the Act.

On 25-11-1991 Mr. A. R. Barthakur, Senior Advocate appeared on behalf of the Central Government and also the Government of Manipur and filed a copy of the aforesaid notification alongwith the brief resume regarding the aims, objectives and activities of the Meitei Extremist Organisations. On perusal of the same, this Tribunal, by its Order dated 25-11-1991, directed issue of notice on all the Associations declared unlawful by the notification in question asking them to show cause within 30 days from the date of service of notice, why the notification be not affirmed. The notice was directed to be served on these associations on such addresses as might be available as also by publication in the newspapers published in Manipur and other North Eastern States, broadcast through All India Radio and Doordarshan and pasting at public places in the aforesaid territories like Deputy Commissioner's Office and market places. It was further directed that the notice should also be served by pronouncement by beating of drums at public places in Imphal and nearby areas. The Central Government was directed to take necessary steps to ensure service of the notices in the manner aforesaid.

On 25-1-1992, the Counsel for the Central Government informed the Tribunal that the service had been affected in terms of the order of the Tribunal. He was directed to produce necessary evidence in support of service. On 1-2-1992, the learned counsel produced the original letter dated 10-1-1992 from the Deputy Secretary (Home), Government of Manipur addressed to the Secretary, Government of India, Ministry of Home Affairs, New Delhi, furnishing full details of the service of notice. On perusal of the same, the service was accepted.

As none appeared for or on behalf of the Organisations in question despite notice, it was directed that the hearing shall proceed ex parte. It was further directed that the proceedings of the Tribunal would be conducted in the Court Room of Vigyan Bhavan Annex, Moulana Azad Road, New Delhi. The Central Government was also directed to notify in local newspapers of Manipur, this venue of sittings of the Tribunal as also the names of the Registrar and the Deputy Registrar, who might be contacted by anybody interested in the proceedings of the Tribunal.

On 29-2-1992, two affidavits were filed on behalf of Union of India and the State of Manipur. Copies of certain documents showing the details of crimes allegedly committed by the Meitei Extremist Organisations from 20-6-1989 to 8-8-1991, Constitution of Revolutionary People's Front and some other documents were also filed. A brief note on the activities of these Organisations from the period from 8-8-1991 to 25-2-1992 was also submitted. The following three persons were named as witnesses : (1) Mr. A. Banerjee, Deputy Secretary, Ministry of Home Affairs, Government of India, New Delhi, (2) Mr. K. H. Mohendro Singh, Deputy Secretary, Home Department, State of Manipur, and (3) Mr. C. Peter, DIG CID, State of Manipur.

The Tribunal directed the Central Government also to produce before it the report sent by the Joint Secy. (Home), Government of Manipur to the Ministry of Home Affairs, Government of India on the subject of declaration of the Meitei Extremist Organisations as unlawful organisations.

On perusal of the Notification, resume and the affidavits filed on behalf of the Central Government and the Government of Manipur the following issue was framed :

"Whether on the basis of the materials on record there was sufficient cause for declaring the People's Liberation Army (Eastern Region), People's Revolutionary Party of Kangleipak and its Red Army as also offshoots of PREPAK like the Kangleipak Communist Party and its armed wing also called the Red Army and other bodies set up by them and the United National Liberation Front to be unlawful Organisations".

On 28-3-1992, Mr. K. H. Mohendro Singh, Dy. Secy. (Home Affairs) State of Manipur and Mr. C. Peter, DIG, CID, State of Manipur, were produced as witnesses. They were duly examined on oath. On 29-3-1992, Mr. A. Banerjee, Deputy Secretary, Ministry of Home Affairs, Government of India, was examined. These witnesses also produced a number of documents which were marked as Exhibits M-1 to M-8 and U-1 to U-2. Exhibit U-2 is the original file of the Ministry of Home Affairs, Government of India bearing No. 11/34/91-NE.I on the subject "The question of declaring Meitei Extremist Organisations viz., PLA, PREPAK, KCP and their allied bodies and UNLF as 'unlawful' under Unlawful Activities (Prevention) Act, 1967" which also contains the various reports received from the various agencies, such as the Intelligence Bureau (Ministry of Home Affairs), Cabinet Secretariat (RAW), Ministry of Defence and the Government of Manipur.

Before considering all this material to decide whether there was sufficient cause for declaring the organisations in question as unlawful by the impugned notification dated 26-10-1991, it may be expedient to set out briefly the scheme, object and the relevant provisions of the Act viz., "the Unlawful Activities (Prevention) Act, 1967".

This Act was enacted to provide for more effective prevention of certain unlawful activities of individuals

and associations or the matters connected therewith. The object of this Act is to make powers available for dealing with activities directed against the integrity and sovereignty of India. (See Statement of Object and Reasons published in the Gazette of India Extraordinary, Part II. Section 2, Page 392).

Section 3 of the Act empowers the Central Government to declare any association or organisation to be unlawful if it is of the opinion that such organisation has become an unlawful association, Section 3, so far as relevant reads :

"3. Declaration of an association as unlawful :

- (1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.
- (2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary :

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the Public interest to disclose.

- (3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Gazette :

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the official Gazette.

(4) xx xxx xxx

"Unlawful association" has been defined in clause (g) of section 2 of the Act as follows :

"Unlawful association" has been defined in clause which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity, or

- *(ii) which has for its object any activity which is punishable under section 153-A or section 153-B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity".

"Unlawful Activity" in relation to an individual or association, as defined in clause (f) of section 2, means :

"any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

- (ii) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the session of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession ;
- (iii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India".

The expression "secession of a part of the territory of India from the Union" has been defined in clause (d) of section 2 to include the assertion of any claim to determine whether such part will remain a part of the territory of India. Clause (b) has defined the expression "cession of part of the territory of India" to include admission of the claim of any foreign country to any such part.

Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, section 4 of the Act requires the Central Government to refer such Notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. Such reference is to be made within 30 days from the date of publication of the Notification under the said sub-section. Under sub-section (3) of this section, the Tribunal, after considering the cause if any shown by the association or office bearers or members thereof, is to hold an inquiry in the manner specified therein and decide whether or not there is sufficient cause for declaring the association to be unlawful and within a period of six months from the date of issue of notification under sub-section (1) of section 3, make such order as it may deem fit either confirming or cancelling the same. It may be pertinent to mention here that by virtue of the provisions contained in sub-section (3) of section 3, a notification issued under section 3 (1) does not take effect until such confirmation by the Tribunal, except in cases where the Central Government in exercise of the power conferred on it under the proviso to sub-section (3) of section 3, directs such notification shall have effect from the date of publication. This too, however, is subject to the order that may be made by the Tribunal under section 4.

Section 5 deals with the constitution, powers and the duties of the Tribunal. Section 6 deals with the period of operation of a notification issued under section 3 (1) of the Act and cancellation thereof. It provides that if the declaration made in the notification is confirmed by the Tribunal by its order made under section 4 such notification shall remain in force for a period of two years from the date on which the notification has become effective. Section 6 is set out below :